IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 3320 of 2003

Between:

1. A.Srinivasa Reddy, S/o.Chinna Govinda Reddy

2. L.Dastagiri Reddy, S/o. Pedda Dibba Reddy

3. A.Venugopala Reddy, S/o.Rama Govinda Reddy

4. Diddikadi Imam Saheb, S/o.Chinna Rosin Sab

5. Dudekula Ganige Chandubaigari Papanna,

S/o.Chandubhai

6. Ambavaram Revanoor Hussain Sab, @ Ambavaram

Revanoor Sab, S/o.Shaik Hussain Sab

7. Karnati Ramireddy, S/o.Narayana Reddy

8. Boya Rangamma, W/o.Pedda Gurrappa

9. Karnati Swami Reddy, S/o.Chenna Reddy

10.Karra Vasundaramma, W/o.Rajeswara Reddy

11.Peddireddy Venkata Krishna Reddy, W/o.Venkata Rami Reddy

12.Hanumanthu Sujatha, W/o.Ramesh Reddy

13.Hanumanthu Venkata Subba, W/o.Yella Reddy

14.Suddamalla Padmavathamma, W/o.Pedda Sanjeeva Reddy

15.Sudamalla Chinna Sanjeeva Reddy, S/o.Subba Reddy

16.Suddamalla Venkata Narayana Reddy, S/o.Subba Reddy

17.Suddamalla Venkata Subba Reddy, S/o.Subba Reddy

--Petitioners 1 to 17 are Residents of Alavakonda Village,

Sanjamalla Mandal, Kurnool District.

18.Dasi Pulla Reddy, S/o.Vengala Reddy

19.Pullagura Thirupalu Reddy, S/o.Hanumantha Reddy

20.Pera Madhusudhana Reddy, Minor, represented by his father

and next friend, Pera Madduleti Reddy, S/o.Thimma Reddy

21.Ramireddy Pedda Nandi Reddy, S/o.Chinna Obula Reddy

22.Katikala Obanna, S/o.Yohan

-- Petitioners 18 to 22 are Residents of Mukkamalla Village

Sanjamala Mandal, Kurnool District.

... PETITIONERS

AND

1.The Government of Andhra Pradesh,

Represented by its Secretary, Irrigation Department,

Secretariat Buildings, Hyderabad.

2. The Engineer-in-Chief, Minor Irrigation

Erramanzil, Hyderabad.

3. The Superintending Engineer, Irrigation Circle, Kurnool

4. The Executive Engineer, Irrigation Department,

M.I.W.Division, Nandyal, Kurnool District.

5. The Revenue Divisional Officer, Nandyal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction, more particularly one in the nature of Writ of Mandamus by declaring the action of the respondents in acquiring the lands belonging to the petitioners without following the due process of law as arbitrary, illegal and unconstitutional and violative of Articles 21 and 300-A of the Constitution of India and consequently direct the respondents to pay compensation forthwith by initiating land acquisition proceedings in respect of lands belonging to the petitioners, situated in Alavakonda and Mukkamalla Villages of Sanjamala Mandal, Kurnool District and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.C.PRAKASH REDDY

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following :

ORDER:

Though interlocutory matters are listed before this Court, having regard to the nature of the Writ Petition, the same is being disposed of at interlocutory stage.

Petitioner Nos.1 to 17 are residents of Alavakonda Village of Sanjamala Mandal, Kurnool District, and petitioner Nos.18 to 22 are residents of Mukkamalla Village of same Mandal. They invoked the jurisdiction of this Court under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the respondents herein in acquiring the land of petitioners without due process of law and without paying compensation, as illegal and arbitrary. They also seek appropriate directions to respondents to pay compensation.

Admittedly, petitioners' lands were used for formation of diversion road between Alvakonda and Mukkamalla Villages in the year 1980. The petitioners contend that since then they have been making representations and are going from pillar to post seeking compensation, in vain. Therefore, they filed the Writ Petition on 24.2.2003.

The Writ Petition is filed after long lapse of twenty three years. Though they aver that they have been making representations since them, the same cannot be a ground for entertaining the Writ Petition and issue Mandamus as prayed when there is delay and laches as held by the Supreme Court.

In **State of Maharashtra v. Digambar** (supra) it was held:

In our view, the above allegation is in no way sufficient to hold that the writ petitioner (respondent here) has explained properly and satisfactorily the undue delay of 20 years which had occurred between the alleged taking of possession of his land and the date of filing of writ petition in the High Court. We cannot overlook the fact that it is easy to make such kind of allegations against anybody that too against the State. When such general allegation is made against a State in relation to an event said to have occurred 20 years earlier, and the State's non-compliance with petitioners demands, State may not at all be in a position to dispute such allegation, having regard to the manner in which it is required to carry on its governmental functions. Undue delay of 20 years on the part of the writ petitioner, in invoking the High Court's extraordinary jurisdiction under Article 226 of the Constitution for grant of compensation to his land alleged to have been taken by the Governmental agencies, would suggest that his land was not taken at all, or if it had been taken it could not have been taken without his consent or if it was taken against his consent he had acquiesced in such taking and waived his right to take compensation for it.

In **C. Padma v. Dy.Secretary to the Government of Tamil Nadu**, the Supreme Court held:

….It is seen that after the notification in GOR 1392 dated 17.10.1992 was published, the acquisition proceeding had become final, the compensation was paid to the appellants' father and thereafter the lands stood vested in the State. In terms of the agreement as contemplated in Chapter VII of the Act,

the Company had delivered possession subject to the terms and conditions thereunder. It is seen that one of the conditions was that on cessation of the public purpose, the lands acquired would be surrendered to the Government. In furtherance thereof, the lands came to be surrendered to the Government for resumption. The lands then were allotted to SRVS Ltd., 5th respondent which is also a subsidiary amalgamated company of the original company. Therefore, the public purpose for which acquisition was made was substituted for another public purpose. Moreover, the question stood finally settled 32 years ago and hence the writ petition cannot be entertained after three decades on the ground that either original purpose was not public purpose or the land cannot be used for any other purpose.

In **Municipal Council, Ahmednagar v. Shah Hyder Baig**, the Supreme Court considered the effect of delay in exercise of jurisdiction under Article 226 and held:

… It is now a well settled principle of law and we need not dilate on this score to the effect that while no period of limitation is fixed but in the normal course of events, the period, the party is required for filing a civil proceeding ought to be the guiding factor. While it is true that this extraordinary jurisdiction is available to mitigate the sufferings of the people in general but it is not out of place to mention that this extraordinary jurisdiction has been conferred on to the law Courts under Artit.226 of the Constitution on a very sound equitable principle. Hence, the equitable doctrine, namely, 'delay defects equity' has its fullest application in the matter of grant of relief under Art. 226 of the Constitution. The discretionary relief can be had provided one has not by his act or conduct given a go-bye to his rights. Equity favours a vigilant rather than an indolent litigant and this being the basic tenet of law, the question of grant of an order as has been passed in the matter as regards restoration of possession upon cancellation of the notification does not and cannot arise.

A counter affidavit is filed by the Executive Engineer, Irrigation and Command Area Development Department, Minor Irrigation Works, Nandyal. It is stated as under:

In reply to the averments made in para 3 of the petitioners' affidavit it is submitted that the Revenue Divisional Officer, Nandyal, requested this office for placing of funds to a tune of Rs.11,13,640/- for payment of land acquisition charges for 18.55 acres land vide his letter No.Rc.G.2779/98, dated 29.3.2000. As the roads were formed in the year 1980 and initial requisition for acquisition was sent on 7.3.1980, the date of acquisition of lands may be treated as 7.3.1980.

In reply to the averments made in para 4 to 8 of the petitioners' affidavit it is submitted that the Superintending Engineer, Irrigation Circle, Kurnool was requested in this Office letter No.238, Superintending Engineer, dated 9.5.2000 for providing funds as requested by the Revenue Divisional Officer, Nandyal. In turn the Superintending Engineer, Irrigation Circle, Kurnool, has also submitted proposals to the Chief Engineer, Minor Irrigation, Andhra Pradesh, Hyderabad, vide Superintending Engineer, Irrigation Circle, Kurnool, Lr.No.674 CE dated 14.7.2000 for releasing of required funds for payment of Land Acquisition charges. As soon as the funds are received, the same along with other records requested by the Revenue Divisional Officer will be placed at the disposal of the Revenue Divisional Officer, Nandyal.

Though a declaration as prayed cannot be granted and the Writ Petition is liable to be dismissed for unexplained delay and laches, having regard to the averments made in the counter affidavit, as above, liberty is given to the petitioners to approach the respondents for appropriate redressal.

With the above observations, the Writ Petition is dismissed. No costs.

_____

(V.V.S.RAO, J)

20.7.2004

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Secretary to Government of Andhra Pradesh,

Irrigation Department,

Secretariat Buildings, Hyderabad.

2. The Engineer-in-Chief, Minor Irrigation

Erramanzil, Hyderabad.

3. The Superintending Engineer, Irrigation Circle, Kurnool

4. The Executive Engineer, Irrigation Department,

M.I.W.Division, Nandyal, Kurnool District.

5. The Revenue Divisional Officer, Nandyal, Kurnool District.

6. 2CCs to GP for Land Acquisition, High Court Bldgs., Hyderabad (OUT)

7.2CD copies

Form-NIC-OGS/WP{ }